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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,324	01/26/2001	Saul R. Dooley	GB 000062	7672

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EXAMINER	
PARTHASARATHY, PRAMILA	
ART UNIT	**PAPER NUMBER**
2136	

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/772,324	DOOLEY, SAUL R.	
	Examiner	Art Unit	
	Pramila Parthasarathy	2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *5,9,10,17,21-23 and 40-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *5,9,10,17,21-23 and 40-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to request for reconsideration filed on November 07, 2005. Claims are 5, 9, 10, 17, 21 – 23 and 40 – 42 are pending.

2. The terminal disclaimer filed on 11/07/2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US patent 6,646,603 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 40 recites the limitation "the first" in line 3. There is insufficient antecedent basis for this limitation in the claim.

The dependent claims 41 and 42 are rejected at least by virtue of their dependency on the dependent claims.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 5, 9, 10, 17, 21 – 23 and 40 – 42 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 19 – 27 of copending Application No. 20040027283. Although the conflicting claims are not identical, they are not patentably distinct from each other because as follows.

5. Claim 40 of instant application recites: A device comprising:

(1) a transmitter for sending a request for location information to a recipient external to the device in the event that the first device is unable to determine its location;

(2) a receiver for receiving location information from that recipient; and

(3) a processor for processing received as processing received location information to generate the device's own location.

6. Claim 19 of the copending application 20040027283 recites: A device able to provide an estimate of its location comprising:

(1) ranging means for obtaining at least one range measurement from the device to a corresponding reference point;

(2) a receiver for receiving ranging information relating to at least one range measurement from another nearby device to a corresponding reference point; and

(3) a processor for calculating an estimate of the location of the device using both the range measurements obtained by its ranging means and from the ranging information, and the co-ordinates of corresponding reference points, and wherein at least one range measurement obtained from the ranging information was obtained with respect to a reference point to which no range measurements were obtained by the ranging means.

7. Claim 20, dependent on Claim 19 of the copending application recites

(4) a transmitter for transmitting the estimate of the location of the device to the other nearby device.

8. As underlined above, the limitation of both instant application and the patent recite the exact language. However, the limitations (1), (2), (3) and (4) of the copending application claim range measurement and further calculating the estimated location information. It is clearly that the limitations of (1), (2) and 3 of the instant application are more specific comparing to the limitation of (1), (2), (3) and (4) are more generic. Therefore, it is clear that Claims 5, 9, 10, 17, 21 – 23 and 40 – 42 of the instant application anticipate Claims 19 – 27 of the copending application.

9. "Claims 5, 17 and 40 in the instant application are generic to the species of claim 19 in the copending application. Thus, the generic invention is "anticipated" by the species of the copending application invention. Cf., Titanium Metals Corp. v. Banner, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985) (holding that an earlier species disclosure in the prior art defeats any generic claim) 4. This court's predecessor has held that, without a terminal disclaimer, the species claims preclude issuance of the generic application. In re Van Ornum, 686 F.2d 937, 944, 214 USPQ 761, 767 (CCPA 1982); Schneller, 397 F.2d at 354. Accordingly, absent a terminal disclaimer, claims 12 and 13 were properly rejected under the doctrine of obviousness-type double patenting." *(In re Goodman (CA FC) 29 USPQ2d 2010 (12/3/1993).*

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

10. Applicant's arguments filed on November 07, 2005, have been fully considered but they are not persuasive for the following reasons:

11. Applicant's remarks/arguments filed on November 13, 2005, with respect to Claims 5, 9, 17, 21 – 23 and 40 – 42 have been fully considered but they are not persuasive. Referring to the previous Office action, Examiner had cited relevant portions of the references as a means to illustrate the system as taught by the prior art. As a means of providing further clarification as to what is taught by the references used in the first office action, Examiner has expanded the teachings for comprehensibility while maintaining the same grounds of rejection of the claims.

12. Reed et al. discloses a method and apparatus for assigning location estimates from a first transceiver of a plurality of wireless transceivers to a second transceiver, wherein a location estimate from a first transceiver of a plurality of wireless transceivers to a second transceiver is transferred and a first confidence level of the location estimate of the first transceiver is calculated based upon the predetermined attributes. Furthermore, the second receiver having the location estimate of the first transceiver and the first confidence level, determines whether to update the location estimate of the second receiver and corresponding second confidence level based upon the location estimate and the first confidence level of the first transceiver.

13. Regarding independent Claims 5, 17 and 40, applicant argued that Reed do not disclose or suggest that "determining that the first device is unable to determine its location; sending a request from the first device to the second device that the second device provide its location to the first device in the event that the first device is unable to determine its location; using the location of the second device as the location of the first device". These arguments are not persuasive.

Applicant is not claiming "sending a request from the first device to the second device that the second device provide its location to the first device in the event that the first device is unable to determine its location" (see amendment filed on 11/07/2005). Regarding "determining that the first device is unable to determine its location; sending a request from the first device to the second device that the second device provide its location to the first device in the event that the first device is unable to determine its location; using the location of the second device as the location of the first device",

Reed teaches and describes a method for estimating location of devices from a first device to a second device to provide estimates of devices that do not have location determination capabilities or for the devices that have location determining means is inoperative. The method is described with a detailed illustrative embodiment (Fig.1, 3-5 and Column 1 line 15 – Column 5 line 55), including the steps of determining the location of a second device located near to the first device (Fig. 3, 4; Column 3 line 6 – Column 4 line 67 and Column 6 line 5 – Column 8 line 45), sending a request from the first device to the second device that the second device provide its location to the first device (Column 2 lines 38 – 56), providing the location of the second device to the first device (Fig.1; column 3 line 6 – Column 4 line 67 and Column 6 line 5 – Column 8 line 45) and using the location of the second device as an estimate of the location of the first device (Fig. 3,4; Column 3 line 6 – Column 4 line 67 and Column 6 line 5 – Column 8 line 45).

14. Applicant clearly has failed to explicitly identify specific claim limitations, which would define a patentable distinction over prior arts. Therefore, the examiner respectfully asserts that CPA does teach or suggest the subject matter broadly recited in independent amended claims 5, 17 and 40. Dependent claims 9, 10, 21 – 23, 41 and 42 are also rejected at least by virtue of their dependency on independent claims and by other reason set forth in this and previous office action. Accordingly, the rejection for the pending Claims 5, 9, 10, 17, 21 – 23 and 40 – 42 is respectfully maintained.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

15. Claims 5, 9, 10, 17, 21 – 23 and 40 – 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Reed et al. (U.S. Patent Number 6, 275,707).

Regarding Claim 5, Reed teaches determining the location of a separately housed, second device located near to the first device (Fig. 3, 4; Column 1 lines 15 – 40 and column 3 lines 6 – Column 4 line 67);

determining that the first device is unable to determine its location (Fig.5; Column 3 line 67 – Column 4 line 67);

sending a request from the first device to the second device that the second device provide its location to the first device (Fig. 3, 4; Column 1 lines 15 – 40; Column 2 lines 38 – 56; and column 3 lines 6 – Column 4 line 67);

providing the location of the second device to the first device (Fig.1; column 3 line 6 – Column 4 line 67 and Column 6 line 5 – Column 8 line 45); and

using the location of the second device as the first device, wherein the location of the second device is provided to the first device using a wireless communications link (Fig. 3, 4; Column 1 lines 15 – 40 and column 3 lines 6 – Column 4 line 67).

Regarding Claim 17, Reed teaches and describes the combination of first and second separately housed devices wherein the second device comprises location determining means for determining the location of the second device and providing the location to the first device (Fig.1, 3-5 and Column 1 line 15 – Column 5 line 55);

wherein the first device is arranged to send a request to the second device that the second device provide its location to the first device (Column 2 lines 38 – 56);

wherein the first device uses the location of the second device as its location; and wherein the location of the second device is provided to the first device using a wireless communications link (Fig. 3, 4; Column 1 lines 15 – 40 and column 3 lines 6 – Column 4 line 67).

Regarding Claim 40, Reed teaches and describes a device comprising a transmitter for sending a request for location information to a recipient external to the device (Fig. 2 #112, #122 and Column 2 lines 38 – 56);

a receiver for receiving location information from that recipient (Fig. 2 #106, #108 and #122; Column 2 lines 28 – 56); and

a processor for processing received location information to generate the device's own location (Fig. 2 #112, Fig. 3 #306 (processing system) and column 3 lines 6 – 44).

Claims 9, 21 and 41 are rejected as applied above in rejecting claims 5, 17 and 40. Furthermore, Reed teaches wherein the first device comprises location determining

means to determine its location; and wherein the request is sent when the location determining means is inoperative (Column 1 lines 46 – 58).

Claim 23 is rejected as applied above in rejecting claim 17. Furthermore, Reed teaches wherein the first device comprises location determining means to determine its location; and wherein the first and second devices are interchangeable such that they may reciprocate assistance provided by the other (Column 3 line 66 – Column 4 line 24).

Claims 10, 22 and 42 are rejected as applied above in rejecting claims 9, 21 and 41. Furthermore, Reed teaches wherein the request is sent only when the location determining means is inoperative (Column 1 lines 46 – 58).

Conclusion

16. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pramila Parthasarathy whose telephone number is 571-272-3866. The examiner can normally be reached on 8:00a.m. To 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-232-3795.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Primary Examiner
AU 2131
1/13/06

Pramila Parthasarathy
January 04, 2006.